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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/992,044	11/16/2001	Tsutomu Uenoyama	34168	4449
116	7590	03/24/2004	EXAMINER	
PEARNE & GORDON LLP 1801 EAST 9TH STREET SUITE 1200 CLEVELAND, OH 44114-3108			SENFU, BEHROOZ M	
ART UNIT		PAPER NUMBER		4
2613				
DATE MAILED: 03/24/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/992,044	UENOYAMA ET AL.	
Examiner	Art Unit		
Behrooz Senfi	2613		

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 16 November 2001.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-21 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-6,8-13 and 15-20 is/are rejected.

7) Claim(s) 7,14 and 21 is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3.
4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
5) Notice of Informal Patent Application (PTO-152)
6) Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 3 – 6, 8, 10 – 13, 15 and 17 – 20, are rejected under 35 U.S.C. 102(e) as being anticipated Sugahara et al (US 2003/0154687).

Regarding claims 1 and 8, Sugahara '687 discloses, "picture coding method and apparatus for executing a coding control in such a manner that a target code amount is calculated every picture to be coded " (i.e. fig. 4, abstract), and "the target code amount of the picture to be coded is calculated by adding a correction amount to a reference target code amount which is approximately constant and reference target code amount is calculated from a reference coding frame rate" (i.e. page4 and 6, sections 0062 and 0041), and "correction value is calculated based upon a difference between a predetermined target value and an actual value of a remaining coded picture amount of a picture which has already been coded and has not yet been outputted from an apparatus" (i.e. fig. 5, page 8, section 0097), and "rate controller, in claim 8" (i.e. fig. 4, controller 12), and "output buffer" reads on (fig. 4, buffer 6).

Regarding claims 3, 10 and 17, Sugahara '687 discloses "determining target amount of code based upon the reference target code amount" (page 15, sections 0190 and 0193).

Regarding claims 4, 11 and 18, Sugahara '687 discloses, "frame rate of input picture is measured and reference coding frame rate is determined based on the measured frame rate" (page 9, sections 0114 and 0115).

Regarding claims 5, 12 and 19, the limitations claimed, "reference frame rate is determined based upon a maximum value of the measured frame rate" reads on (page 17, section 0209)

Regarding claim 15, the limitations claimed are substantially similar to claims 1 and 8, therefore the grounds for rejecting claims 1 and 8, also apply here.

Regarding claims 6, 13 and 20, the limitations claimed, "reference frame rate is determined based upon an average value" reads on (page 13, section 0160)

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2, 9 and 16, are rejected under 35 U.S.C. 103(a) as being unpatentable over Sugahara '687 in view of Chujoh et al (US5,416,521).

Regarding claim 2, Sugahara '687 teaches, "picture coding method and

apparatus calculating target code amount" (i.e. fig. 4, abstract), and "the target code amount of the picture to be coded is calculated by adding a correction amount to a reference target code amount which is approximately constant and reference target code amount is calculated from a reference coding frame rate" (i.e. page4 and 6, sections 0062 and 0041). Sugahara '687 fails to explicitly teach the claimed "frame skipping". However the above feature is well known and used in the art as evidenced by Chujo '521 (fig. 5, frame skipping decision making unit 16). Therefore, taking the combined teaching of Sugahara '687 and Chujo '521 as a whole, it would have been obvious to modify the video coding apparatus of Sugahara with frame skipping decision making as taught by Chujo (col. 5, lines 34 – 43 and col. 8, lines 16 – 25) to maximize the coding performance without picture degradation.

Regarding claims 9 and 16, the limitations claimed are substantially the same as claim 2, therefore the grounds for rejecting claim 2 also apply here.

Allowable Subject Matter

5. Claims 7, 14 and 21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Behrooz Senfi** whose telephone number is (703)305-0132.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Chris Kelley** can be reached on **(703)305-4856**.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

Or faxed to:

(703) 872-9314

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relative to the status of the application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

B. S. B. J.

3/17/2004

Chris Kelley
CHRIS KELLEY
SUPERVISOR, PCT EXAMINER
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